

EXHIBIT A

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IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

NICOLE TAYLOR REED,
Plaintiff,

vs. CIVIL ACTION NO.
2:06-CV-00380-MHT-CSC

BIG LOTS STORES, INC.,
Defendant.

* * * * *

DEPOSITION OF NICOLE TAYLOR REED,
taken pursuant to notice and stipulation
on behalf of the Defendant, in the offices
of Carpenter, Ingram & Mosholder, 4121
Carmichael Road, Suite 303, Montgomery,
Alabama, before Nicole Paulk, Court
Reporter and Notary Public in and for the
State of Alabama at Large, on January 17,
2007, commencing at 9:32 a.m.

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1 Q. Where was that? Where did you attend high
2 school?

3 A. Lanier High School.

4 Q. In Montgomery?

5 A. Uh-huh. Because that was a nice violent
6 fight. And -- I'm trying to think. I
7 have a bad memory.

8 Q. I'm sorry, what did you just say?

9 A. I said my memory, I have --

10 Q. You have a poor memory?

11 A. Uh-huh, very.

12 Q. So is it hard for you to remember things
13 that occurred years ago?

14 A. Very. That's just being honest. High
15 school. Okay. And then coming up to the
16 day about -- what -- have I been arrested?
17 Okay. And then coming up to the -- what
18 -- when was that, though? Okay. See, I
19 had got into some trouble about -- I had
20 some detectives come to my house a while
21 back, some years ago, concerning like Home
22 Depot or something, saying that I was into
23 something with some people there. Went

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1 Q. Do you recall the address for McGehee Park
2 Apartments in 2002?

3 A. Sir, if I recalled the actual address of
4 the thing, I would have put it on there.
5 I don't -- I honestly don't recall it, the
6 number.

7 Q. And do you recall the dates any more
8 specifically than you have listed in
9 response to Interrogatory Number 1?

10 A. No. I mean -- no, I don't recall the
11 dates any more specific. I know that year
12 I stayed in that apartment. And I ain't
13 never stayed in an apartment no longer
14 than a year, lease time, or six months.
15 And only one I had six months is when I
16 moved from McGehee Place and I went back
17 home with mama from mid-'05 to '06. I
18 don't know. They're correct, though.

19 Q. For the record, what is your race?

20 A. Black.

21 Q. And for the record, you're female?

22 A. Yes.

23 Q. Are you currently married?

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1 answer the question, you're saying I'm
2 refusing to cooperate? I don't -- I
3 honestly don't see that that's refusing to
4 cooperate.

5 Q. That's just your opinion; is that correct?

6 A. Yeah. Yes, that's correct.

7 Q. And what post-high school education have
8 you had?

9 A. Went to college, Troy State University of
10 Montgomery.

11 Q. And when did you attend college at Troy
12 State University of Montgomery?

13 A. From 2000 to -- when I graduated from high
14 school in 2000 until present time. I sat
15 out two years, from 2004 until now, until
16 January of this year.

17 Q. Tell me more specifically, have you earned
18 any degrees from Troy State University of
19 Montgomery?

20 A. I earned two. I have an associate's
21 degree in general science and education,
22 and I have a BS degree in human resource
23 management.

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1 about a 15-minute break. Ms. Reed, you
2 were hired by Big Lots on December 13,
3 2003; is that correct?

4 A. Correct.

5 Q. And that's --

6 A. 2003, you say?

7 Q. Uh-huh.

8 A. 2002 I thought. 2002?

9 Q. Okay. And you were hired as a part-time
10 cashier; is that right?

11 A. Part-time cashier, correct.

12 Q. And you were hired to work in Big Lots
13 Store Number 818 in Montgomery, Alabama;
14 is that correct?

15 A. Correct.

16 Q. And you worked at Store Number 818
17 throughout your employment with Big Lots;
18 is that true?

19 A. Correct.

20 Q. With whom did you interview when you
21 applied with Big Lots; do you recall?

22 A. James -- I forgot his last name. James.
23 I forgot his last name.

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1 Q. Do you know who was involved in the
2 decision to hire you?

3 A. No.

4 Q. And when you were hired, like all
5 employees, you received an associate
6 handbook; is that true?

7 A. I don't recall receiving a handbook.

8 Q. You don't recall whether you received one?

9 A. Uh-huh.

10 Q. Do you recall signing a piece of paper
11 acknowledging that you received an
12 associate handbook and had reviewed the
13 contents?

14 A. Not -- you're talking at the time that I
15 got hired?

16 Q. When you started working there.

17 A. Probably later on in the -- as I worked, I
18 probably did, but not as I got hired, not
19 the first day or anything like that. I
20 probably did later on --

21 Q. Maybe not the first day, but you recall
22 signing an acknowledgement form that you
23 received an employee handbook?

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1 A. Right.

2 Q. And you recall receiving an associate
3 handbook?

4 A. Right. Correct.

5 Q. If not the first day, then shortly
6 thereafter?

7 A. Or -- yeah.

8 Q. Ms. Reed, I've just handed you a copy of
9 Big Lots' equal opportunity policy, which
10 is contained in the associate handbook; is
11 that correct?

12 (The referred-to document was
13 marked for identification as
14 Defendant's Exhibit No. 6.)

15 A. I'm not sure if it's in the handbook or
16 not, but you handed me a form saying equal
17 opportunity employment.

18 Q. You recognize this as Big Lots' equal
19 employment opportunity policy?

20 A. Yeah, but I'm not sure if this page is in
21 the handbook.

22 Q. But you recognize this policy as Big Lots'
23 equal employment opportunity policy, is

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1 what I'm asking you.

2 A. Oh, I've never seen the equal opportunity
3 employment policy.

4 Q. Did you read the handbook?

5 A. They brought us in one day soon -- well,
6 towards the end and everything, they
7 brought us in, in order to bring the --
8 the handbooks, to read them. Told us come
9 to work one hour early just to read the
10 handbook and sign the paper. But what I'm
11 saying is I don't know if this exact one
12 came out the handbook. I don't know.

13 Q. Okay. Do you recall when you came in to
14 -- had it been revised? Is that when you
15 came in --

16 A. Yeah.

17 Q. -- to read another copy and sign a new
18 acknowledgement form?

19 A. That's what -- yeah, that's what we did.

20 Q. All right. So at some point you recall --
21 some point after you received an associate
22 handbook and signed for it, at some other
23 point it was revised, and so they asked

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1 you to come in early and receive a new
2 version of the associate handbook and sign
3 for that version too? Is that what you
4 were just talking about?

5 A. Yes.

6 Q. So you knew there was an equal opportunity
7 employment policy at Big Lots?

8 A. Yeah.

9 Q. And you were aware that the policy states
10 that no person shall be discriminated
11 against in employment because of, among
12 other things, race, color, and sex,
13 correct?

14 A. Correct.

15 Q. And you were aware during your employment
16 that Big Lots' policy prohibits
17 discrimination upon, among other things,
18 race, color, and sex, correct?

19 A. Correct.

20 Q. And you were aware during your employment
21 that Big Lots' policy stated that any
22 formal or informal allegation that the
23 equal employment opportunity had been

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1 violated should be referred immediately to
2 human resources; is that correct?

3 A. I'm not -- I don't know about that.

4 Q. You don't recall?

5 A. I don't recall.

6 Q. But you were aware that complaints could
7 be directed to human resources, correct?

8 A. I mean, that's for any company. Yeah, I'm
9 aware of that.

10 Q. But at Big Lots you understood that the
11 policy was that human resources was one
12 place to raise complaints?

13 A. Yes.

14 Q. I've just handed you, Ms. Reed, what has
15 been marked as Exhibit 7, which is a copy
16 of the harassment-free environment policy,
17 which is also contained in Big Lots'
18 associate handbook; is that correct?

19 (The referred-to document was
20 marked for identification as
21 Defendant's Exhibit No. 7.)

22 A. It's the policy, but I'm not sure if it's
23 in the -- I don't recall it being in the

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1 A. I don't recall.

2 Q. You don't recall whether you did or not?

3 A. Yeah, I don't recall.

4 Q. But you knew that Big Lots prohibited
5 harassment and/or discrimination based on
6 race and color and sex and so forth,
7 didn't you?

8 A. Ask me that question again.

9 Q. You're aware that Big Lots had a policy in
10 place that prohibited harassment and
11 discrimination based on race and color and
12 gender and such things?

13 A. Yes.

14 Q. And if you'll look with me, I'm down to
15 the paragraph that begins "likewise." Do
16 you see that?

17 A. Uh-huh.

18 Q. It states that, quote, any associate who
19 believes he/she has been the subject of
20 harassment is responsible for promptly
21 reporting the alleged act to human
22 resources or his/her immediate supervisor.
23 Is that correct?

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1 A. That's what the statement says, yes.

2 Q. And you knew during your employment that
3 such complaints should be made to a
4 supervisor or the human resources
5 department, correct?

6 A. How can you go to the people who are doing
7 this to you?

8 Q. That's not what my question was.

9 A. So what's the question?

10 Q. Do you need me to repeat the question?

11 A. Please.

12 Q. The question was, you knew that under Big
13 Lots' policy such complaints could be
14 raised with an immediate supervisor or a
15 supervisor or human resources?

16 A. Okay.

17 Q. Is that right?

18 A. Yes.

19 Q. And I've just handed you a copy of Exhibit
20 8, which is a copy of Big Lots' open door
21 policy; is that correct?

22 (The referred-to document was
23 marked for identification as

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1 Defendant's Exhibit No. 8.)

2 A. That's what you -- that's what I've
3 received.

4 Q. And do you recall this policy from the
5 associate handbook?

6 A. No, I don't.

7 Q. You don't recall whether it was in there
8 or not?

9 A. Yeah, I don't recall if it was in there or
10 not.

11 Q. Is that because of the length of time that
12 it's been since you worked at Big Lots?

13 A. I'm almost sure that's what it is.

14 Q. It's hard for you to remember what the
15 policies were or what you knew about them
16 because it's been a while since you worked
17 at Big Lots?

18 A. Correct.

19 Q. But if I told you that this open door
20 policy was in the associate handbooks
21 during your employment, you don't have any
22 reason to disagree, do you?

23 A. No.

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1 A. Only thing, I just -- I couldn't recall
2 that, like actually put it like, oh, yeah,
3 I remember; I couldn't say that. But I
4 wouldn't dispute saying that it wasn't
5 there.

6 Q. It's possible it was in there and you just
7 don't recall?

8 A. Correct.

9 Q. And was it also possible you saw this
10 policy in other forms other than the
11 associate handbook but you just don't
12 recall?

13 A. It's possible.

14 Q. Is it possible that you received training
15 on the Get Real Hotline?

16 A. I know I did that.

17 Q. You did receive training on it?

18 A. I know I -- I know we've done that.

19 Q. And then that last paragraph states that
20 any attempt to thwart or retaliate against
21 an associate for exercising his or her
22 open door rights will be considered a
23 serious violation of company policy and

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1 may result in disciplinary action up to
2 and including termination of employment.
3 Is that correct?

4 A. That's what it states.

5 Q. I've just handed you a document that's
6 been marked as Exhibit 9, Ms. Reed. And
7 this is a copy of Big Lots standards of
8 conduct policy; is that right?

9 (The referred-to document was
10 marked for identification as
11 Defendant's Exhibit No. 9.)

12 A. That's what it states.

13 Q. And the first page states that violations
14 of company policy, including the
15 harassment-free policy, will not be
16 tolerated; is that correct?

17 A. That's what it states.

18 Q. And the second page, last paragraph,
19 states, quote, associates are expected to
20 comply with this policy and report
21 violations immediately, end quote. Is
22 that correct?

23 A. That's what it states.

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1 A. Started. Yeah, that sounds about right.

2 Q. You have no reason to disagree with that
3 amount?

4 A. No.

5 Q. Ms. Reed, do you recognize this document?

6 (The referred-to document was
7 marked for identification as
8 Defendant's Exhibit No. 10.)

9 Q. It indicates that you received a pay
10 increase to \$6.05 in June 2003, correct?

11 A. Correct.

12 Q. And the document is signed by you and
13 Billy Pridgen?

14 A. Correct.

15 Q. And Mr. Pridgen was an assistant manager
16 at Store Number 818; isn't that correct?

17 A. Correct.

18 Q. Do you know whether Mr. Pridgen made the
19 decision to give you the pay increase?

20 A. Repeat it.

21 Q. Do you know whether Mr. Pridgen made the
22 decision to give you this pay increase?

23 A. I don't know.

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1 cashier position to a store associate
2 position, do you know who made that
3 decision?

4 A. No.

5 Q. I've just handed you Exhibit 12, which is
6 another action request form from Big Lots.
7 Do you recognize this document?

8 (The referred-to document was
9 marked for identification as
10 Defendant's Exhibit No. 12.)

11 A. Yes.

12 Q. It indicates you received another pay
13 increase to \$6.70 in December 2004,
14 correct?

15 A. Correct.

16 Q. And this document is signed by you and
17 Jerry Culpepper, correct?

18 A. Correct.

19 Q. Do you know who made the decision to give
20 you the pay increase?

21 A. No.

22 Q. Was Jerry Culpepper the store manager for
23 Store Number 818 at that time?

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1 A. Correct.

2 Q. I've just handed you a performance
3 appraisal marked as Exhibit 13. Do you
4 recognize this exhibit?

5 (The referred-to document was
6 marked for identification as
7 Defendant's Exhibit No. 13.)

8 A. Yes.

9 Q. And this is, again, a performance
10 appraisal, and it's for you, and it's
11 signed June 29, 2003 by you, Billy
12 Pridgen, and E. Torbert; is that correct?

13 A. Correct.

14 Q. And the first page indicates that Billy
15 Pridgen completed the appraisal. Is that
16 your understanding?

17 A. Yes.

18 Q. And your overall rating was 11 points,
19 which is noted as outstanding; is that
20 correct?

21 A. Correct.

22 Q. And you were pleased with this evaluation;
23 is that true?

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1 Q. And isn't it true that Billy Pridgen and
2 Jerry Culpepper gave you only positive
3 evaluations?

4 A. Correct.

5 Q. Do you recall ever receiving a verbal or
6 written discipline or reprimand during
7 your employment at Big Lots?

8 A. No.

9 Q. So you were never reprimanded or
10 disciplined while you worked there; isn't
11 that true?

12 A. True. Correct.

13 Q. And you were never demoted or punished in
14 any way while you worked at Big Lots, were
15 you?

16 A. No.

17 Q. Throughout your employment at Big Lots,
18 did you perform your job duties well?

19 A. Yes.

20 Q. And you were always able to perform your
21 job duties well at Big Lots?

22 A. Not always.

23 Q. But you always did perform them well?

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1 performance and proud of your work?

2 A. My work, yes.

3 Q. And throughout your employment at Big
4 Lots, you always performed all of the
5 duties and responsibilities that were
6 asked of you?

7 A. Yes.

8 Q. And when you performed your duties and job
9 responsibilities, you performed them well?

10 A. Correct.

11 Q. And you're not basing any claims in this
12 lawsuit on any issues concerning your
13 evaluations, are you?

14 A. No.

15 Q. All right. In this lawsuit, you allege
16 you were subjected to a hostile work
17 environment because of your race and sex,
18 correct?

19 A. Correct.

20 Q. And those are the only claims you're
21 bringing in this lawsuit, correct?

22 A. Correct.

23 Q. And you're bringing your claims under

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1 Title 7 of the Civil Rights Act; is that
2 correct?

3 A. Correct.

4 Q. Ms. Reed, I've just handed you what's been
5 marked as Exhibit 17. Do you recognize
6 this document?

7 (The referred-to document was
8 marked for identification as
9 Defendant's Exhibit No. 17.)

10 A. Yes.

11 Q. And is this a copy of the complaint you
12 filed in this matter?

13 A. Yes.

14 Q. Who prepared this document?

15 A. A guy named Attorney Gary Atchison.

16 Q. Did he prepare this shortly before it was
17 filed?

18 A. He -- yeah. This -- yeah. Yes.

19 Q. But he's not representing you in this
20 lawsuit, is he?

21 A. Correct. He dropped us at the last
22 minute.

23 Q. Tell me what you mean.

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1 Q. Ms. Reed, we're back on the record after
2 our lunch break. You understand that
3 you're still under oath; is that correct?

4 A. Correct.

5 Q. Ms. Reed, I've just handed you a document
6 that's been marked as Exhibit 18. Do you
7 recognize this document?

8 (The referred-to document was
9 marked for identification as
10 Defendant's Exhibit No. 18.)

11 A. Yes, I do.

12 Q. Is this a copy of your charge of
13 discrimination you filed against Big Lots
14 with the EEOC on June 23rd, 2005?

15 A. Correct.

16 Q. And this is Charge Number 130-2005-05212?

17 A. Correct.

18 Q. And you filed a copy of this document as
19 an exhibit to your complaint; is that
20 correct?

21 A. Correct.

22 Q. Did you review this EEOC charge before it
23 was filed?

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1 A. Yes.

2 Q. And is that your signature at the bottom
3 of the page?

4 A. Yes.

5 Q. And you signed the document on June 16,
6 2005?

7 A. Yes.

8 Q. And you understood this was sworn
9 testimony?

10 A. Yes.

11 Q. And is everything in the charge truthful
12 and accurate?

13 A. Yes.

14 Q. And you've included the relevant facts?

15 A. Yes.

16 Q. And in the box on the charge indicating
17 the date the alleged discrimination took
18 place, you've noted March 28 through 30,
19 2005; is that correct?

20 A. Yes.

21 Q. And those are the dates you allege the
22 discrimination took place?

23 A. For the situation on the pictures, but

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1 Q. Did you draft this Exhibit A?

2 A. No, I did not.

3 Q. Who did?

4 A. Gary -- Attorney Gary Atchison.

5 Q. And he represented you at the time this
6 charge was filed; is that correct?

7 A. Correct.

8 Q. Now, is the information contained in
9 Exhibit A complete and accurate with
10 respect to the specific facts underlying
11 this EEOC charge?

12 A. Correct.

13 Q. And did you file this charge because you
14 were complaining about the pictures Mike
15 Williams made?

16 A. Correct.

17 Q. And was Mike Williams an associate manager
18 at Big Lots Store Number 818 where you
19 worked?

20 A. Yes, he was.

21 Q. And is his full name Gerald Michael
22 Williams?

23 A. Yes.

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1 Q. When I refer to Mike Williams, you'll
2 understand who I'm referring to?

3 A. Correct.

4 Q. Do you know the age under Alabama law that
5 an individual is considered, under the
6 eyes of the law, an adult, as opposed to a
7 minor?

8 A. No.

9 Q. So you don't know the legal age of
10 majority in --

11 A. Oh, 21? Is it 21?

12 Q. I'm asking what you think it is.

13 A. I think it's 21. 22.

14 Q. Do you know?

15 A. I don't know.

16 Q. Do you know whether it's 18?

17 A. No.

18 Q. You don't know?

19 A. Huh-uh.

20 Q. And back to your allegations with respect
21 to Mike Williams, what specifically did he
22 do?

23 A. He went around in the store and he took

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1 pictures of us, supposedly to make us name
2 badges, kind of like the warehouse name
3 badges or ID cards. And the next day,
4 what he came back with was a photo -- was
5 the photograph with our pictures on the
6 money and the other ladies on the faces --
7 their black bodies on the white faces --
8 their black faces on the white bodies and
9 stuff. But if you had a color copy, you
10 could actually see that, that the skin on
11 the women and stuff is white.

12 Q. Do you have color copies?

13 A. Yeah. It's in the car. I left it in my
14 little thing. It's in the car.

15 Q. All right. But you have not produced
16 color copies to us in response to the
17 request for production that Big Lots
18 served in this case, have you?

19 A. I haven't? I guess I didn't, but -- guess
20 not. I thought I did, but I must have
21 gave that copy to the judge's office when
22 I -- because I made a -- when I did my
23 responsive questions, on the back of it,

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1 when I put the things, I had a color -- I
2 mean a copy of the pictures. But I must
3 have gave that copy to the judge and gave
4 y'all the copy of the -- the black and
5 white copy.

6 Q. And this conduct by Mike Williams occurred
7 between March 28th and 30th, 2005; is that
8 correct?

9 A. Concerning the pictures, yes.

10 Q. The conduct about which you're complaining
11 with respect to Mike Williams occurred
12 between March 28th and 30th, 2005?

13 A. Yes.

14 Q. Make sure you answer out loud after I've
15 finished what I'm saying, even if you
16 understand what I'm saying, so that it's
17 clear on the record. Thank you. All
18 right. And are the pictures about which
19 you are complaining in this EEOC charge
20 attached to Exhibit B -- or attached,
21 rather, as Exhibit B to the EEOC charge?

22 A. Yes.

23 Q. And is it your understanding that Mike

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1 Williams made all of the pictures that are
2 attached as Exhibit B to the EEOC charge?

3 A. He did.

4 Q. Okay. Looking at the first page of this
5 Exhibit B, that's not a picture of you, is
6 it?

7 A. No, it's not.

8 Q. And who are the two individuals in that
9 picture?

10 A. Linda Sankey and Jerry --

11 Q. I'm sorry?

12 A. Lindy Sankey.

13 Q. Linda Sankey?

14 A. Uh-huh, and Jerry Culpepper.

15 Q. Okay. And is Linda Sankey a black female?

16 A. Yes.

17 Q. And the other person in the picture --

18 A. A white --

19 Q. -- who you've identified as Jerry
20 Culpepper, is a white male, correct?

21 A. Correct.

22 Q. And someone has written 3/29/05 on that
23 picture. Did you do that?

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1 A. No. When it was hung up by the time clock
2 where we captured these pictures from in
3 the hallway, Linda Sankey, if I'm not
4 mistaken, either her or Autherine, they
5 put the date on it as soon as it happened,
6 the day that they got it down off the wall
7 so that they could know when this
8 happened.

9 Q. Okay. Now, is it your understanding that
10 this particular picture was hung up by the
11 time clock?

12 A. Yes, it was hung up by the time clock.

13 Q. Did you see it on the wall --

14 A. I didn't see -- I didn't see it, no. I
15 just asked them how they got it, and they
16 said he posted it by the time clock.

17 Q. So your understanding that this was posted
18 was based on what you heard from someone
19 else?

20 A. Correct.

21 Q. And Mike Williams didn't give you a copy
22 of this picture?

23 A. Correct.

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1 Q. And the only way you saw this picture is
2 because Linda Sankey or Autherine Crosky
3 gave you a copy?

4 A. Yes.

5 Q. And you don't know personally what day the
6 picture went up?

7 A. No.

8 Q. And you don't know personally how long the
9 picture was up?

10 A. Like time period, no.

11 Q. And you don't personally even know whether
12 it was ever even hung up, because you
13 never saw it?

14 A. I never saw it.

15 Q. So you don't personally know whether it
16 was?

17 A. I never saw it.

18 Q. And again, you're not in this picture?

19 A. Correct.

20 Q. And you weren't affected by this picture,
21 were you?

22 A. No.

23 Q. Do you have any personal knowledge as to

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1 he be just as offended by it as her?

2 A. Yes.

3 Q. And the second page of Exhibit B includes
4 pictures of various individuals on play or
5 fake hundred dollar bills; is that right?

6 A. Correct.

7 Q. And I'm referring to the left side of the
8 page there. Now, were these individuals
9 Big Lots employees?

10 A. Yes.

11 Q. And are you pictured on any of these
12 pictures?

13 A. Yes.

14 Q. Which one?

15 A. The last one.

16 Q. The last one in the column?

17 A. The fifth one in that column.

18 Q. Fifth one down. And who are the other
19 employees on these bills? If you'll just
20 start with the first one at the top left
21 of the page and go down.

22 A. You've got number one, Autherine Crosky,
23 number two, Barbara Martin, number three,

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1 Linda Sankey, number four, Lola Abner, and
2 the fifth picture is myself, Nicole Reed.

3 Q. Okay. Where did this page -- and by that
4 I'm referring to the second page of
5 Exhibit 2 -- where did this come from?

6 A. The next day -- you see the date at the
7 bottom --

8 Q. Uh-huh.

9 A. -- they also found this one posted by the
10 time clock. I didn't come to work that
11 evening -- I didn't get to work that day
12 until that evening, and when I arrived at
13 work that evening, that's when they had
14 shown me these pictures.

15 Q. Okay. So your understanding of the first
16 picture on the first page of Exhibit B is
17 that someone posted this by the time
18 clock --

19 A. On that day.

20 Q. -- on the 29th, and then someone else took
21 it down?

22 A. Uh-huh. Linda herself took it down. She
23 said --

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1 Q. Linda took it down?

2 A. Uh-huh.

3 Q. So you don't know personally who posted it
4 or how long it was up there?

5 A. Not for -- no.

6 Q. All right. Now we're on the second page
7 of Exhibit B, which has 3/30/05. And it's
8 your understanding this was posted near
9 the time clock, this page of these
10 pictures, just like this?

11 A. Just like this but it was in color. It
12 was a color copy.

13 Q. It was posted by the time clock on
14 3/30/05?

15 A. Correct.

16 Q. But you don't know who posted it?

17 A. No. I didn't personally see who put it up
18 there, and I didn't personally see who
19 took it down.

20 Q. And you never saw it up?

21 A. I never -- no.

22 Q. You never saw this second page of pictures
23 in Exhibit B posted?

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1 A. I never seen it by -- no.

2 Q. Never saw it up on display?

3 A. Correct.

4 Q. So your understanding that it was
5 displayed near the time clock is only
6 based on what someone else told you?

7 A. What Autherine told me, the day shift, the
8 ladies who work in the morning time.
9 They're the ones who took it down.

10 Q. Based on what they tell you?

11 A. Yeah, based on what they told me.

12 Q. But again, you don't know anything about
13 that first-hand?

14 A. Not first-hand.

15 Q. Do you know whether pictures of all
16 employees who worked in the store at that
17 time were put on play hundred dollar bills
18 by Williams regardless of race or gender?

19 A. Repeat that again.

20 Q. Do you know whether pictures of all the
21 employees who worked at Big Lots Store 818
22 were put on the play hundred dollar bills
23 by Williams, regardless of their race or

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1 their gender?

2 A. No, I don't know.

3 Q. You don't know whether that happened?

4 A. No, I don't know.

5 Q. So again, you don't know if there are
6 other copies of other photographs with
7 different employees on the play hundred
8 dollar bill, do you?

9 A. I don't know.

10 Q. You don't know if Mike Williams put his
11 own picture on one?

12 A. Never seen it if he did.

13 Q. But do you know?

14 A. Don't know.

15 Q. And you don't know whether Jerry Culpepper
16 appeared on one?

17 A. Don't know.

18 Q. So in sum, you don't know whether white
19 employees were put on hundred dollar bills
20 by Williams?

21 A. Don't know. Never seen it.

22 Q. And you don't know whether pictures of
23 white employees on the play hundred dollar

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1 bills were posted also?

2 A. We really didn't have that many white
3 employees at Big Lots.

4 Q. Okay. Answer my question.

5 A. Don't know.

6 Q. Don't know, okay. Do you know whether
7 male employees were included on fake or
8 play hundred dollar bills by Mike
9 Williams?

10 A. Don't know.

11 Q. And you don't know whether any male
12 employees pictured on play hundred dollar
13 bills were posted near the time clock, do
14 you?

15 A. Don't -- don't know. Bogus. Bogus bills,
16 that's what he called them, bogus cash.

17 Q. But that's just play money, right?

18 A. They still discredit the person.

19 Q. In what way?

20 A. I mean, it's saying at the top, this
21 person is as bogus as this note, at the
22 top of the bill. So he's just calling you
23 out of character saying --

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1 Q. So is that what you find objectionable
2 about it?

3 A. Yeah. Because he -- I mean, he hadn't
4 even worked at the store long enough to
5 know your character or to get to know you.

6 Q. He was a relatively new employee?

7 A. Right.

8 Q. Well, do you know whether this is just
9 part of his sense of humor?

10 A. No, I don't know if that was part of his
11 sense of humor.

12 Q. You don't know?

13 A. Huh-uh.

14 Q. I mean, didn't you think he just thought
15 this was funny?

16 A. I don't know.

17 Q. You don't know?

18 A. He could have, but I don't know.

19 Q. He could have. Do you know whether it's
20 possible that he just did this maybe to
21 break the ice and get to know people and
22 have a little fun?

23 A. Well, I know this wouldn't be a way I

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1 would do it.

2 Q. Well, but do you know if that's what he
3 intended?

4 A. Huh-uh, I don't know.

5 Q. But again, what you find objectionable
6 about this -- what I'll call the play
7 money pictures -- and again, we're talking
8 about these on the left column, the
9 hundred dollar bills -- what you find
10 objectionable is the fact that it says
11 this person is as bogus as this note? Is
12 that what you have an issue with?

13 A. Yeah, bogus cash. Yeah, that's what --
14 yeah.

15 Q. But these pictures and the text on the
16 bills don't say anything about the
17 employees' race or gender, do they?

18 A. No, but they're all black females. All
19 five of them on this picture that we so
20 happened to get was black -- five black
21 females.

22 Q. On this particular page?

23 A. Right, on this page.

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1 Q. But you testified that you don't know
2 whether there are others?

3 A. No, I don't know.

4 Q. And you testified that the majority of the
5 employees at Store Number 818 were black
6 or African-American; isn't that correct?

7 A. Correct.

8 Q. And the majority of the employees there
9 were also women; isn't that correct?

10 A. Correct.

11 Q. So again, I'm asking you, these pictures
12 don't show anything about anyone's race,
13 do they?

14 A. They just -- they're black females.

15 Q. So -- but is that it, the fact that they
16 just happen to be black?

17 A. Yeah, they happen to be --

18 Q. That's the only thing relating to their
19 race, isn't it?

20 A. Yeah.

21 Q. And the text doesn't say anything about
22 their race, does it? The language on the
23 --

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1 A. Oh, the text on the bill?

2 Q. Uh-huh.

3 A. No, it just calls you bogus.

4 Q. But that doesn't have anything to do with
5 their race, does it?

6 A. No.

7 Q. Are you depicted in any of the other
8 pictures on the second page of this
9 Exhibit B?

10 A. No, I'm not.

11 Q. And so these other pictures on this page
12 don't affect you, do they?

13 A. No.

14 Q. And that's because you're not in them?

15 A. Correct.

16 Q. And many of the pictures on the second
17 page of Exhibit B also include a white
18 male; isn't that correct?

19 A. Yes, it does.

20 Q. And who is the white male depicted in the
21 pictures?

22 A. It looks like -- it appears to be Jerry
23 Culpepper.

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1 Q. And Jerry Culpepper is pictured -- or the
2 white male in these pictures is pictured
3 with silly or funny clothing and making
4 funny or silly comments just like the
5 other individuals in the pictures; isn't
6 that correct?

7 A. He's making comments.

8 Q. And he's wearing funny clothes too, right?

9 A. Yeah. Yes.

10 Q. And so only one of the pictures on Page 2
11 of Exhibit B includes you; isn't that
12 correct?

13 A. Correct.

14 Q. And you didn't write the date 3/30/05 at
15 the bottom of this page?

16 A. Correct.

17 Q. And you don't know who wrote it?

18 A. Correct.

19 Q. And you don't know the date that these
20 pictures were made?

21 A. No. I just know that was the date I seen
22 them. I know I seen them that day, the
23 30th.

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1 Q. When someone handed it to you?

2 A. Correct.

3 Q. But you didn't see it hanging up anywhere?

4 A. Correct.

5 Q. Isn't it true that none of the pictures on
6 this second page of Exhibit B have
7 anything to do with race or gender?

8 A. None of what pictures?

9 Q. On this page.

10 A. Yes, they do.

11 Q. There are no references to anyone's race,
12 are there?

13 A. But they've got these --

14 Q. Hold on. I'm asking you a question.
15 There are no references to anyone's gender
16 or race on this page, are there?

17 A. Oh, like saying it in words? No words.

18 Q. Is there any reason you think any of these
19 have anything to do with race?

20 A. Yes, because they've got these women in
21 clown -- in -- looks like monkey suits.

22 Yes, I do. And then you've got their --

23 Q. What pictures are you talking about?

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1 A. I'm talking about this center of this
2 exhibit, the small ones with Autherine,
3 Linda Sankey, and Lola Abner. He actually
4 had those -- if you see the color copy,
5 you'll be able to tell that that's monkey
6 suits.

7 Q. Looks like a clown suit to me.

8 A. Okay.

9 Q. Do you know what it is?

10 A. From what it looks like to me, looks like
11 them little -- like you dress one of them
12 little monkeys that you give the change
13 to -- looks like one of those.

14 Q. But do you know whether those are just
15 clown costumes?

16 A. Don't know what it is.

17 Q. Is there anything else that you think
18 relates to race?

19 A. He put their -- like at the bottom with
20 Lola, he's got her black face and the
21 white neck, white hands.

22 Q. Why do you think that has anything to do
23 with race? Couldn't it just be that the

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1 pictures he was using were of white
2 people?

3 A. He -- see, he actually took the time to
4 turn these people's faces to sit on these
5 bodies, so he premeditated and knew
6 exactly what he was doing to get these
7 pictures to perfection like he did.

8 Q. Okay. What does that have to do with
9 race?

10 A. Because he's got these five black women on
11 these white bodies.

12 Q. So maybe -- do you know whether these were
13 just the pictures he had on his software
14 program on his computer and this allowed
15 him to do this?

16 A. I don't know.

17 Q. You don't know whether he was
18 intentionally trying to make reference to
19 anyone's race or gender, do you?

20 A. I don't know what his plans were.

21 Q. You don't know whether he was
22 intentionally trying to harass someone, do
23 you?

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1 A. No.

2 Q. Or make someone feel bad, do you?

3 A. I don't know what his plans were.

4 Q. And you don't know whether Mike Williams
5 was intentionally referring to any race or
6 gender of these folks, do you?

7 A. I don't know what he was implying.

8 Q. You testified that you know that Mike
9 Williams made these pictures.

10 A. We know he made them because on the next
11 page he took our -- he went around and we
12 posed for him to take ID badges. So you
13 come back the next day or so with the ID
14 badges and our pictures on clown faces,
15 you're the only one had the camera going
16 around the store taking the pictures, so
17 you did these.

18 Q. That's why you think he did it?

19 A. Yeah.

20 Q. He never told you he did it?

21 A. Oh, he -- he laughed about these pictures.
22 He thought it was funny. He laughed about
23 them.

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1 Q. So he did think it was funny?

2 A. Yeah.

3 Q. Do you know why he thought it was funny?

4 A. Don't know.

5 Q. And so the pictures on Page 3 of Exhibit B
6 appear to be the name badges; is that
7 right?

8 A. Yeah.

9 Q. And isn't it true that Mike Williams put
10 the pictures of all the store employees on
11 their name badges?

12 A. I don't think he got around to everybody,
13 because at the time when he first did it,
14 everybody don't be at the store at the
15 same time.

16 Q. Okay. Do you know whether he did it?

17 A. No. I don't know whether he was able to
18 complete everybody's name badges or how
19 many he got done.

20 Q. And you don't find any objectionable or
21 discriminatory with respect to these name
22 badge pictures on Page 3 of Exhibit B?

23 A. As far as the name badges, no, but the

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1 the pictures on there?

2 A. I don't know what -- I don't know.

3 Q. So you don't know who actually put these
4 numbers on these badges, do you?

5 A. No.

6 Q. And putting someone's social security
7 number or partial social security number
8 on the badges, that doesn't have anything
9 to do with anyone's gender or race, does
10 it?

11 A. No.

12 Q. So you don't find these objectionable on
13 that basis, do you?

14 A. Other than -- no. Other than social
15 security numbers, no.

16 Q. But again, that doesn't have -- you don't
17 find them to be related to race or gender,
18 these pictures?

19 A. Not the name badge pictures, no, not race
20 or gender.

21 Q. So those aren't really part of your EEOC
22 charge?

23 A. They was in there to tell the reason how

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1 he got our pictures.

2 Q. Okay. So that's what I'm saying. But
3 they're not really part of this?

4 A. Correct.

5 Q. All right. And again, it was your
6 testimony that you don't have any personal
7 knowledge as to why Mike Williams used the
8 employees' pictures on the play money and
9 in the other pictures about which you were
10 complaining, did you?

11 A. I don't know why he did it.

12 Q. And you don't know whether he just had an
13 odd sense of humor and thought it would be
14 funny, do you?

15 A. I don't know his sense of humor. I know I
16 didn't find it funny.

17 Q. And you don't have any personal knowledge
18 as to whether race or gender had anything
19 to do with Williams making these pictures,
20 do you?

21 A. Other than the black faces on the white
22 bodies, no.

23 Q. I'm asking you whether that had anything

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1 -- you don't know whether that had
2 anything to do with him making these
3 pictures, do you?

4 A. Just like we don't know why he did it.

5 Q. That's what I'm saying. You don't have
6 any idea why he did this?

7 A. No.

8 Q. And you don't know if there are other
9 pictures that include other employees
10 other than these, do you?

11 A. Have never seen them.

12 Q. So is that a no, you don't know?

13 A. Don't know.

14 Q. Do you know whether any store manager or
15 any other higher level manager gave
16 Williams permission to make these pictures
17 or otherwise knew he was doing it?

18 A. Don't know.

19 Q. And again, the only reason you personally
20 saw these pictures is because Autherine
21 Crosky -- or did you say Linda Sankey --

22 A. Linda.

23 Q. -- gave them to you?

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1 A. Yeah, brought it up to me to show me.

2 Q. And you never spoke to Williams about
3 these pictures?

4 A. No.

5 Q. And you did not personally complain to
6 anyone else about these pictures, did you?

7 A. Huh-uh. Culpepper tried to -- Culpepper
8 tried to explain --

9 Q. Hold on. Let's try to answer my question.
10 You didn't personally complain to anybody
11 about these pictures, did you, to any
12 manager?

13 A. I said something to Culpepper about it,
14 like what happened, you know, how did
15 these get done. And he was just like --

16 Q. Hold on.

17 A. I said I talked to Culpepper. I don't
18 know if it went on record or paper or
19 nothing like that, but I said something to
20 him.

21 Q. Tell me -- and by Culpepper, you mean
22 Jerry Culpepper?

23 A. Jerry Culpepper, yeah. I just asked him,

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1 him what happened, like this morning,
2 because it happened like that morning.

3 And he was just like, oh, Michael, he --

4 Q. Which morning are you talking about?

5 A. The morning of the 30th. It happened on
6 the --

7 Q. You think you had a casual conversation
8 with Culpepper on the morning of March
9 30th --

10 A. Huh-uh, the evening when I got in. This
11 incident happened in the morning.

12 Q. Okay. The evening of March 30th, 2005?

13 A. Right, when I got to work. And I just
14 asked him what happened.

15 Q. You just said, what happened?

16 A. Yeah. I was like, how did this get out;
17 what is this. And he just brushed it off.
18 It wasn't like no, I was coming to see him
19 as a like employee supervisor to complain
20 to him. It wasn't that type of comment.

21 Q. That's not how you were treating it?

22 A. No, that's not how -- huh-uh.

23 Q. You weren't complaining about them; you

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1 were just asking him what --

2 A. Trying to figure out what's going on with
3 it, just to see, you know -- just like I'm
4 trying to get up front to get in one of
5 these things, I'm trying to figure out
6 what happened, how did this get out.

7 Q. You just casually mentioned it to him?

8 A. Mentioned it, yeah.

9 Q. And what did he say?

10 A. He was just like, oh, something that
11 Michael did, don't worry about it. He
12 said it like that, oh, don't worry about
13 it; it's nothing. And so I didn't think
14 anything of it that day -- you know, the
15 rest of that day that I was working.

16 Q. So you just casually mentioned it to him.
17 You didn't complain about it; you just
18 said --

19 A. No, I didn't complain about it to --

20 Q. To Jerry --

21 A. -- higher -- him or higher. Yeah, I
22 didn't.

23 Q. All right. And you didn't say, I have a

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1 problem with these or anything like that;
2 you just asked what they were or where
3 they came from; is that right?

4 A. Yeah. I was in that type -- I was more
5 like stunned like that somebody can do it,
6 like what is this; what happened. I was
7 more like that until I was able to bring
8 them and actually sit down and just think
9 about it.

10 Q. All right. But you didn't complain to
11 anyone at Big Lots, a manager or HR or
12 anything, about these pictures?

13 A. No, I did not. I personally did not, no.

14 Q. And you didn't indicate to Jerry Culpepper
15 that you had a problem with the pictures?

16 A. At that time, no. No.

17 Q. Well, I'm just talking about period. You
18 never -- you didn't discuss these pictures
19 with him again, did you?

20 A. No, didn't discuss them.

21 Q. So you just mentioned it the one time, and
22 you didn't tell him that you personally
23 had a problem; you just asked him what you

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1 said you asked him?

2 A. Uh-huh, what happened and how did they get
3 out, you know.

4 Q. And there was only the one picture of you
5 as we discussed, correct?

6 A. Correct.

7 Q. And so you testified that at that time you
8 -- on the 30th when you saw these and you
9 did mention it to Jerry Culpepper, you
10 didn't have a problem or find these
11 objectionable at that time, did you?

12 A. I was more shocked, like, that this was
13 done. That's the type expression I had,
14 like, what? What is this? I was more
15 like stunned that he did it, like I can't
16 believe he did that. That was my
17 expression, like, what? What is this?
18 Shocked. So no, I did not complain to
19 Jerry Culpepper at that time, because I
20 was going to him in like shock stage, just
21 froze.

22 Q. And these are the -- the one picture not
23 of you on Page 1 of Exhibit B and then

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1 these pictures on Page 2 of Exhibit B,
2 these are the only pictures you raised in
3 your EEOC charge, correct?

4 A. Correct.

5 Q. All right. And these are the only
6 pictures you're aware of that are like
7 this?

8 A. That was taken -- yeah, correct.

9 Q. During your employment at Big Lots; is
10 that right?

11 A. Yeah. Besides the actual name badges --

12 Q. Well, you said you didn't have an issue
13 with the name badges, so I'm referring to
14 this picture on Page 1 of Exhibit B and
15 these pictures on the second page of
16 Exhibit B.

17 A. Okay.

18 Q. These are the only pictures like this that
19 you encountered or came across during your
20 employment at Big Lots, right?

21 A. Correct.

22 Q. And it's your understanding that these
23 were taken on March 29th, '05, or made on

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1 March 29th, '05 and March 30th, '05; is
2 that right?

3 A. Yes.

4 Q. Do you know at what time or when Big Lots
5 or the other managers at Big Lots found
6 out about these pictures?

7 A. Don't know.

8 Q. Don't know. Do you know whether anyone
9 had mentioned these pictures or shown
10 these pictures to Jerry Culpepper before
11 you mentioned --

12 A. I don't know.

13 Q. Did you show them to Jerry Culpepper, or
14 did you just say something about some
15 pictures?

16 A. Just said something about some pictures.

17 Q. But you didn't actually have a copy?

18 A. I didn't actually have a copy, no, in my
19 hand.

20 Q. So you don't know when Jerry Culpepper --
21 who was the store manager, correct --

22 A. Correct.

23 Q. -- you don't know when he saw these --

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1 Q. You don't know whether he was fired for
2 these pictures, do you?

3 A. Don't know.

4 Q. Are you aware that Williams' separation
5 from Big Lots was effective April 11th,
6 2005?

7 A. Not aware.

8 Q. Are you aware that as soon as Big Lots
9 learned about these pictures, it
10 investigated the incident?

11 A. I didn't know.

12 Q. Isn't it true that after Big Lots learned
13 of the pictures and disciplined Williams,
14 there were no more such pictures?

15 A. No more pictures, correct.

16 Q. And would you agree that Big Lots
17 corrected any problems with Mike Williams?

18 A. I guess. As far as I recall.

19 Q. So as far as you know, Big Lots took
20 action when Big Lots found out about these
21 pictures, and there were no more pictures,
22 correct?

23 A. I was never told that they took action,

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1 this charge? You just don't know?

2 A. I don't know.

3 Q. Ms. Reed, I've just handed you what has
4 been marked as Exhibit 19, which is a
5 dismissal and notice of rights from the
6 EEOC to you. And is this a copy of the
7 dismissal and notice of rights you
8 received from the EEOC with respect to
9 your EEOC Charge Number 130-2005-05212?

10 (The referred-to document was
11 marked for identification as
12 Defendant's Exhibit No. 19.)

13 A. Correct.

14 Q. And the document indicates it was mailed
15 on June 29th, 2005; is that correct?

16 A. Correct.

17 Q. And you received it on June 29th or within
18 a few days; is that correct?

19 A. Correct.

20 Q. And it states that the EEOC is closing its
21 file on this charge for the following
22 reason, and the box is checked that
23 states, the facts alleged in the charge

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1 failed to state a claim under any of the
2 statutes enforced by the EEOC. Is that
3 correct?

4 A. Correct.

5 Q. And you understood that the EEOC was
6 dismissing your charge, correct?

7 A. Correct.

8 Q. I've just handed you Exhibit 20, which is
9 a letter to you from the EEOC. Do you
10 recognize this letter?

11 (The referred-to document was
12 marked for identification as
13 Defendant's Exhibit No. 20.)

14 A. Yes.

15 Q. And this is a letter to you from Allen
16 Gosa with the EEOC, correct?

17 A. Yes.

18 Q. And in this letter, the EEOC states that
19 your charge has been dismissed and that
20 from the facts presented the EEOC did not
21 conclude that the photographs or
22 illustrations constitute a racially or
23 sexually hostile work environment; is that

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1 correct?

2 A. Correct.

3 Q. When did you first contact a lawyer
4 regarding your employment at Big Lots?

5 A. When did I first contact a lawyer
6 regarding my employment? Are you talking
7 about the situation?

8 Q. Yeah, regarding anything that happened at
9 Big Lots, when did you first contact a
10 lawyer?

11 A. I can't recall the very first time because
12 I know I done talked to several. So I
13 really can't recall the very first one I
14 talked to.

15 Q. You talked to several --

16 A. Attorneys.

17 Q. -- before you filed your EEOC charge or
18 after?

19 A. Before. So I can't recall like the exact
20 dates of when I sat in these people's
21 office and talked to them.

22 Q. Was the first lawyer that actually
23 represented you Gary Atchison?

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1 A. Yes.

2 Q. Ms. Reed, do you recognize this document?

3 A. Yes, I do.

4 Q. And is this document, which has been
5 marked as Exhibit 21, a copy of the second
6 charge of discrimination you filed against
7 Big Lots with the EEOC?

8 (The referred-to document was
9 marked for identification as
10 Defendant's Exhibit No. 21.)

11 A. Yes.

12 Q. And you also attached a copy of this
13 charge as an exhibit to your complaint,
14 correct?

15 A. Yes.

16 Q. And this is charge number 130-2005-6904,
17 which was filed with the EEOC on September
18 22, 2005; is that correct?

19 A. Correct.

20 Q. Did someone prepare this for you?

21 A. The same attorney, Gary Atchison.

22 Q. Did you review this charge before you
23 submitted it to the EEOC?

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1 Q. But you testified that you don't know if
2 you provided additional information
3 regarding the first charge or not; is that
4 right?

5 A. Right, so --

6 Q. All right. So I was asking you, did you
7 file the second EEOC charge because the
8 EEOC had dismissed the first charge?

9 A. Right.

10 Q. So that's yes?

11 A. Yes.

12 Q. And this charge is also based on alleged
13 conduct that took place between March 28th
14 and March 30th, 2005; is that correct?

15 A. That's what it says on the thing, yeah.

16 Q. So the answer is yes, this charge is also
17 based on alleged conduct that took place
18 between March 28th and 30th, 2005?

19 A. Well, that makes it seem like it just
20 happened only between those dates. Is
21 that what it's saying?

22 Q. This is your charge.

23 A. So that might be...

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1 Q. I'm asking whether the conduct about which
2 this charge is based also took place
3 between March 28th and 30th, 2005, just
4 like your first charge.

5 A. I know, but what I'm asking, is like March
6 28th through 30th is like the only time
7 period that things happened? Is that what
8 that's saying? It's looking like it's
9 saying it only happened between that time
10 period. I'm just asking a question.

11 Q. Well, I'm asking you the questions. This
12 is your EEOC charge.

13 A. Again, those dates refer to the pictures.

14 Q. Okay. So this charge is also based on
15 alleged conduct that took place between
16 March 28th and March 30th, 2005, just like
17 your first charge; is that correct?

18 A. Referring to the pictures, yes, but little
19 comments and stuff made, no.

20 Q. This second charge is based on the same
21 allegations of harassment or
22 discrimination that are included in your
23 first charge; isn't that true?

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1 A. Yes.

2 Q. Attached to the EEOC charge is Exhibit A
3 to the charge; is that correct?

4 A. Correct.

5 Q. And does Exhibit A contain all of the
6 allegations on which you base this EEOC
7 charge?

8 A. Yes.

9 Q. And this charge and the attached pages are
10 the only documents and information you
11 recall providing to the EEOC in support of
12 this, your second EEOC charge?

13 A. Correct.

14 Q. Did you draft Exhibit A?

15 A. Huh?

16 Q. Did you draft Exhibit A?

17 A. The same attorney drafted it, typed
18 everything else up for us -- for me.

19 Q. And in this Exhibit A to your second EEOC
20 charge, you also complain about the same
21 Mike Williams pictures you complained
22 about in your first EEOC charge, correct?

23 A. Correct.

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1 Q. And this conduct by Williams you testified
2 occurred between March 28th and 30th,
3 2005; isn't that correct?

4 A. Correct.

5 Q. And in Exhibit A to this, your second EEOC
6 charge, you have mentioned an alleged
7 statement made by Jerry Culpepper, the
8 store manager, in February 2005; is that
9 right?

10 A. Yes.

11 Q. And this is where he referred to a movie?

12 A. Yes. That other employee, Barbara Martin,
13 she had got a -- I guess you could say
14 assaulted like the day before, that
15 Sunday, at the Winn Dixie. And she came
16 to Big Lots because she didn't know where
17 to go. She came to Big Lots, and she was
18 telling them what happened about the guy
19 came up to her out of nowhere and pulled
20 his genitals out in front of her and it
21 frightened her. So when she got back to
22 work, she told Culpepper, so that's when
23 he got to talking about it reminded him of

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1 an old western about the guy behind the --
2 the white guy was managing the black guy
3 or something, and the white guy was
4 looking for the black guy and the white
5 guy was like, where you at or something
6 like that, and he was like shaking my
7 bush, boss, just shaking my bush, like he
8 was using the bathroom behind the bush.
9 And he actually was doing the example,
10 like shaking my bush, boss, just shaking
11 my bush. But he told me I wouldn't
12 remember the old western because I
13 probably was too young.

14 Q. Okay. And so this comment was made
15 allegedly in February of 2005, right?

16 A. Correct.

17 Q. And that was before you filed your first
18 EEOC charge on June 23, 2005, correct?

19 A. Yes.

20 Q. And this is one of the incidents that you
21 included in your first EEOC charge?

22 A. No, it wasn't -- that wasn't included in
23 the first EEOC charge. It was just the --

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1 the phone or something to them.

2 Q. So it's possible that this is one of the
3 incidents that they were investigating
4 with respect to your first charge?

5 A. It's possible, but I'm not sure.

6 Q. Looking back at your first EEOC charge,
7 which was Exhibit 18, Exhibit A states
8 that there were other comments and
9 statements made during the last 180 days
10 other than just these pictures that you
11 were raising --

12 A. Right.

13 Q. -- in your charge. So would this
14 statement, which occurred during that time
15 frame, be one of the incidents you were
16 referring to --

17 A. Yes.

18 Q. -- in your first EEOC charge?

19 A. That would be it.

20 Q. So you would have included this statement
21 in your first EEOC charge, as far as what
22 you were complaining about?

23 A. Correct.

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1 really saying like what happened to
2 Barbara --

3 Q. Was he talking to her?

4 A. Yeah. She was up there too.

5 Q. So he wasn't to you; he was talking to
6 Barbara Martin?

7 A. He was telling us the story.

8 Q. But he wasn't really talking about you or
9 to you or anything that happened to you?

10 A. No, because nothing -- no. He just --

11 Q. You just overheard him?

12 A. No. He got our attention -- stopped us
13 from doing what we were doing to get our
14 attention to tell us this story. It was
15 like that.

16 Q. Have you ever seen this movie --

17 A. Who?

18 Q. -- that he was referring to?

19 A. No. I don't even know what he's talking
20 about, the name of it or anything.

21 Q. And have you told me all you can recall
22 about that incident?

23 A. Yes.

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1 Q. So you've never seen the movie that he was
2 referring to?

3 A. Huh-uh.

4 Q. So you have no personal knowledge as to
5 what scene he was referring to?

6 A. No.

7 Q. Do you know why he was referring to that
8 movie?

9 A. Because of the other associate, Barbara
10 Martin, got insulted by a guy in a grocery
11 store, and he was referring that incident
12 to the movie. How --

13 Q. Do you know why he made that comment?

14 A. Don't know why.

15 Q. And do you know what he meant when he said
16 it reminded him of, I assume, what
17 happened to Barbara Martin?

18 A. I don't know why.

19 Q. So you have no personal knowledge as to
20 why Culpepper made the comment or what he
21 meant by it, do you?

22 A. No.

23 Q. And Culpepper didn't make any reference to

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1 your race or your sex when he made this
2 comment, did he?

3 A. No.

4 Q. And he didn't make any reference to her
5 race, Barbara Martin's race or sex when he
6 made this comment, did he?

7 A. No.

8 Q. And Barbara Martin was a -- was she
9 another cashier?

10 A. Yes.

11 Q. Do you know whether Culpepper ever made
12 the same comment to white or male
13 employees or referenced this movie to
14 white or male employees?

15 A. No.

16 Q. You don't think that his statement
17 regarding this movie had anything to do
18 with your race or sex, do you?

19 A. I mean, we're black females and he's
20 talking about a black guy behind a bush,
21 so it was kind of offensive for him to be
22 talking about a black male behind a bush,
23 you know, using the bathroom behind a

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1 bush.

2 Q. What does that have to do with your race
3 or your gender?

4 A. I mean, why would a white male be sitting
5 here telling us a story about a black male
6 behind a bush shaking his privates?
7 That's insulting. It's -- I mean, it's
8 like humiliating.

9 Q. What does race have to do with it; do you
10 know?

11 A. I'm still like, why would a white guy tell
12 you a story, so -- why would a white
13 supervisor --

14 Q. What I'm asking you is, did that have
15 anything to do with your race, as far as
16 you know?

17 A. Not as far as I know.

18 Q. Now, did that have anything to do with
19 your gender, as far as you know?

20 A. No.

21 Q. Okay. Now, when you said someone shaking
22 their privates, what are you talking
23 about?

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1 plant?

2 A. I don't think that's what he was talking
3 about, the way he did his gesture.

4 Q. Do you know?

5 A. I don't know. You don't know.

6 Q. I'm asking the questions. Do you know?

7 A. You don't know, so -- so no, nobody knows
8 but Jerry.

9 Q. Well, I've seen the movie, but I'm not
10 testifying here.

11 A. Well, tell me what the movie's name is and
12 I'll go watch it and see.

13 Q. This statement here doesn't say anything
14 -- mention anything about him making any
15 hand gesture, does it?

16 A. No, it doesn't. It say --

17 Q. I'll show it to you.

18 A. Those are my notes and stuff.

19 Q. I've just handed you copies of two
20 documents that you produced earlier today;
21 they have been marked as Exhibit 22. Do
22 you recognize these documents?

23 (The referred-to document was

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1 marked for identification as
2 Defendant's Exhibit No. 22.)

3 A. Yes, I do.

4 Q. Are these your handwriting?

5 A. This one right here is, but this one is
6 not.

7 Q. So you're saying that the -- which is your
8 handwriting?

9 A. This one. This is my handwriting, the one
10 that's got my name at the top of the page.

11 Q. The one with your name at the top that's
12 written in manuscript that does not have
13 the exhibit sticker on it?

14 A. Right.

15 Q. But the one with the exhibit sticker is
16 not your handwriting?

17 A. Correct.

18 Q. Well, whose handwriting is that?

19 A. This is Barbara Martin's handwriting.

20 Q. Why would she have your notes?

21 A. She had my notes because when we sat down
22 together -- when we had our first meeting
23 with the lawyer that we talked to, she was

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1 A. I don't know 100 percent, no, I do not.

2 Q. So you don't know why you've written down
3 February 2005 as the date?

4 A. In her handwriting --

5 Q. No, I'm not talking about her handwriting;
6 I'm asking about yours.

7 A. It happened that day. That's when it
8 happened. That's the month and the date
9 -- and the year that that incident was
10 said.

11 Q. This states that he said, I'm just shaking
12 the bush, boss, just shaking the bush --
13 not my bush, but the bush. Is that
14 accurate?

15 A. That's what the -- that's what it says.

16 Q. The bush?

17 A. Yeah.

18 Q. Is that what was said?

19 A. That's what it says on the paper.

20 Q. Right. And is that what you wrote down
21 after the incident happened?

22 A. Could have been.

23 Q. And this states that the guy was using the

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1 bathroom behind a tree. Could that be
2 what he was talking about when he said
3 shaking the bush?

4 A. Could be.

5 Q. You don't know?

6 A. Don't know.

7 Q. And also in Exhibit A you have shaking the
8 bush, and you're referring to someone
9 behind a tree. So again, that could be
10 referring to the plant or the tree,
11 couldn't it?

12 A. Could be.

13 Q. So there's nothing that has anything to do
14 with your sex?

15 A. Not in that comment, no. Not in that
16 comment.

17 Q. Nor is there anything sexual in this
18 comment, is there?

19 A. I feel it is, but...

20 Q. What?

21 A. You're trying to say shaking the -- okay.
22 No, it ain't.

23 Q. I'm sorry?

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1 A. It's not.

2 Q. It's not sexual?

3 A. No.

4 Q. You never complained about this statement
5 to anyone, did you, at Big Lots?

6 A. How could you go to the manager that said
7 it about the comment?

8 Q. Answer my question.

9 A. How can you go to the manager that said
10 the comment?

11 Q. Did you go to any other manager?

12 A. No, not when the other one was the one
13 taking pictures of you, putting your face
14 on --

15 Q. In February of 2005?

16 A. In February -- who was the managers then?

17 Q. You don't recall who the managers were
18 then?

19 A. I don't even recall who was the managers
20 at that time.

21 Q. So my question was, did you complain to
22 anyone -- did you tell Jerry Culpepper
23 that you were offended by this statement?

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1 A. Did I say it out my mouth? No.

2 Q. Okay. Did you complain to anyone other
3 than Jerry Culpepper regarding this
4 statement?

5 A. No.

6 Q. Have you told me everything you can
7 remember about this alleged statement?

8 A. To my knowledge, yes.

9 Q. In Exhibit A you also state that in March
10 of 2005 Culpepper stated to you that,
11 quote, these customers get on my fucking
12 nerves, end quote. Is that accurate?

13 A. That's accurate and true. I heard it with
14 my own ears, and I wrote that down that
15 day -- I wrote that down. Somebody had --
16 anytime -- Mr. Culpepper used to always
17 cuss. When somebody make him mad or keep
18 calling him to do this or do that thing
19 and --

20 Q. I'm just asking you to answer my
21 questions.

22 A. So yeah.

23 Q. And this comment also allegedly occurred

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1 prior to your filing the first EEOC charge
2 on June 23, 2005; is that right?

3 A. Yeah, correct.

4 Q. And this is also one of the incidents in
5 which you based your June 23rd EEOC
6 charge; is that right?

7 A. Correct.

8 Q. And Culpepper was referring to customers,
9 not you, when he allegedly made this
10 comment, correct?

11 A. Correct.

12 Q. And this statement had nothing to do with
13 you, did it?

14 A. It was still -- fucking -- I mean, the
15 word "fucking," you're saying it in an
16 environment around females. That's not
17 appropriate.

18 Q. I'm asking whether this comment had
19 anything to do with you.

20 A. I heard it. He said it.

21 Q. Other than the fact that you heard it,
22 this comment had nothing to do with you,
23 did it? He was complaining about

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1 customers; is that right?

2 A. Right.

3 Q. So it had nothing to do with you, correct?

4 A. Correct.

5 Q. And Culpepper did not reference your race
6 or your sex when he made this comment, did
7 he?

8 A. No.

9 Q. And this comment doesn't have anything to
10 do with your race or your sex, does it?

11 A. I mean, still, the word "fucking," I mean
12 --

13 Q. I'm asking -- you may not like the word,
14 but I'm asking whether it has anything to
15 do with your race or your sex.

16 A. You're asking what you want to hear from
17 the word. But no, it don't.

18 Q. I'm sorry?

19 A. You're asking --

20 Q. Does it have anything to do with your race
21 or your sex?

22 A. No, it doesn't.

23 Q. In the context of this alleged statement,

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1 Culpepper was not using this word in a
2 sexual manner, was he?

3 A. (No response.)

4 Q. Go ahead and answer.

5 A. Oh, repeat the question.

6 Q. In the context of this alleged statement,
7 Culpepper was not using the word in a
8 sexual manner, was he?

9 A. No, not towards me. Around me, but not
10 towards me.

11 Q. But he's not using the F-word -- is what
12 I'll refer to it as -- in a sexual way, as
13 a sex word, is he? He's just showing
14 frustration; is that correct?

15 A. The word itself is a sex word itself,
16 though.

17 Q. In that context? He wasn't using it in a
18 sex context, was he?

19 A. No.

20 Q. Do you have personal knowledge as to why
21 Culpepper made this statement?

22 A. No.

23 Q. Do you know whether Culpepper ever made

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1 the statement to male employees?

2 A. No.

3 Q. Do you know whether Culpepper ever made
4 this statement to white employees?

5 A. No.

6 Q. Did you complain to anyone about this
7 statement?

8 A. No. He used to cuss so much.

9 Q. I'm sorry?

10 A. I said he -- he cussed all the time.

11 Q. Again, did you complain to anyone about
12 this statement made by Culpepper?

13 A. Who would I complain to, him? And he's
14 the one saying it?

15 Q. Please answer my questions.

16 A. I'm just asking, I'm going to complain to
17 him and he's the one saying it?

18 Q. Did you complain to his boss?

19 A. I don't know who his boss is.

20 Q. You didn't know who the district manager
21 was?

22 A. No.

23 Q. Did you complain to HR?

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1 A. No.

2 Q. So you didn't complain to the district
3 manager, and you didn't complain to HR,
4 did you?

5 A. No.

6 Q. Did you call the complaint hotline?

7 A. Didn't know the number.

8 Q. We've already covered that. The answer is
9 no?

10 A. No.

11 Q. You also alleged in your second charge
12 that Billy Pridgen made a comment on or
13 about July 18, 2005, regarding coconut
14 bras; is that correct?

15 A. Correct.

16 Q. Tell me about that incident.

17 A. Lisa, the fellow employee, she was out --
18 she was off work that day. She came into
19 the store to get boxes --

20 Q. Was she a cashier?

21 A. No. She was like a stocker or something.
22 She came into the store to get boxes, and
23 when she came to the store to get boxes,

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1 Billy was right at the door. And he was
2 like, hey, Lisa, because I guess he was
3 throwing the boxes for her or whatever.
4 He was just like, hey, Lisa, tell Nicole
5 about them coconut bras. And -- because
6 she -- it was her family reunion time, and
7 her family reunion theme was Hawaii, so --
8 I was like coconut bras? And it was over
9 the wall, true enough, the little bitty
10 coconut bras. And he said, coconut bras,
11 you and her are the only ones can fill
12 them. And he actually put his hand on his
13 chest as if he had a breast.

14 Q. You said in your exhibit, you and Lisa are
15 the only ones who can wear those coconut
16 bras. Is that more accurate about what
17 was said?

18 A. Yes, that's what he said, y'all the only
19 ones can wear them. And he placed his
20 hand over his chest and he demonstrated it
21 and laughed, and I walked off.

22 Q. And this was on or about July the 18th of
23 2005?

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1 A. Yes.

2 Q. And was this incident also included in
3 your first EEOC charge?

4 A. It -- I don't know. Probably over the
5 phone but not like in writing, because I
6 talked to several --

7 Q. But you think you probably mentioned it to
8 the EEOC investigator?

9 A. I could have. Yeah, I could have. I
10 don't recall, though.

11 Q. And these coconut bras were being sold at
12 Big Lots with Hawaiian-themed attire?

13 A. Yes, along with the lace and stuff like
14 that for the summertime, summer stuff.

15 Q. And Lisa was present? Lisa Poole was
16 present when the alleged comment was made?

17 A. Uh-huh. Yes.

18 Q. Do you know that Lisa denies that he made
19 that comment?

20 A. I don't know.

21 Q. Is it possible you misheard or
22 misunderstood Pridgen?

23 A. I don't know.

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1 A. Yeah.

2 Q. And again, you don't have any personal
3 knowledge about what he meant?

4 A. No.

5 Q. You don't think that comment had anything
6 to do with your race, do you?

7 A. No.

8 Q. Do you think he made that comment because
9 of your sex?

10 A. Because of my small breasts, yes.

11 Q. But that's just your speculation?

12 A. Yes.

13 Q. Is this the only time you recall Pridgen
14 making such a comment?

15 A. Talking about as far as sexually, yes.

16 Q. I'm asking you if this is the only time
17 you recall Pridgen making a similar
18 comment to this one.

19 A. Similar, yeah. Yes.

20 Q. Did you tell Pridgen you were offended by
21 this comment?

22 A. I walked off from him.

23 Q. That's not responsive.

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1 something --

2 Q. I'm asking you whether you told him --

3 A. -- I'll walk off from him.

4 Q. -- you were offended. It's a yes or no
5 question.

6 A. No, I did not tell him.

7 Q. Thank you. Did you complain to any
8 manager or supervisor or HR about this
9 comment?

10 A. No. Environment too hostile. Didn't know
11 who to talk to.

12 Q. I'll move to strike that as nonresponsive.

13 A. I didn't know who to talk to.

14 Q. The question was, did you complain to any
15 manager or supervisor about that
16 statement.

17 A. Environment too hostile. I didn't know
18 who to talk to.

19 Q. Again, I'm asking you to answer my
20 question. Did you?

21 A. Environment too hostile. I didn't know
22 who to go to. I didn't know who to go to.
23 At that time when situations and instances

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1 was happening, that's --

2 Q. You haven't responded to my question. You
3 didn't call HR?

4 A. No.

5 Q. You also alleged in your second charge
6 that Jerry Culpepper once made a comment
7 after he bought you a soda; is that
8 correct?

9 A. That's correct.

10 Q. Tell me about the incident.

11 A. I was at my register; he was behind the
12 service desk. And he said, would anybody
13 like something to drink. I said, yes, I
14 would, a Sprite, please. He went and got
15 the drink -- he went to the customer
16 service desk and bought it from another
17 cashier, came back, handed it to me. I
18 said, thank you, Mr. Culpepper. He said,
19 I'm going to tell you like the old folks
20 used to tell me, all I want to see now is
21 ass and elbows.

22 Q. And what was your response?

23 A. What was my response? I was just like

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1 shocked, was shocked and everything.

2 Q. Did you have a response?

3 A. Didn't have one.

4 Q. So you have alleged here that that
5 incident occurred on or about August 17,
6 2005?

7 A. Yeah. I should have it -- I've got a -- I
8 should have a receipt for the soda. I
9 kept that.

10 Q. Why did you have the receipt? Did he not
11 buy it for you?

12 A. He bought the -- anytime they buy sodas
13 for us, they give us the receipt to keep
14 on the drink. But if the --

15 Q. So everyone will know that it was paid
16 for?

17 A. Yeah, it was paid -- yeah.

18 Q. So was he being nice, buying you a drink?

19 A. I suppose.

20 Q. Did he do that from time to time for the
21 employees?

22 A. Yeah, after you unload a truck or do
23 something or if the store was just hot

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1 evidence.

2 Q. You can give me a copy of the receipt.

3 A. Oh, okay. I can do that.

4 Q. Or you can call me and we can discuss it
5 and. We'll make arrangements.

6 A. Sure.

7 Q. Is it possible that this is one of the
8 comments on which your first EEOC charge
9 was based?

10 A. I don't think -- huh-uh. No.

11 Q. Had you ever heard the term "ass and
12 elbows" before?

13 A. Have I heard it? Yeah, I've heard it.

14 Q. Had you heard it before that day?

15 A. Yeah, I heard it before.

16 Q. Before that day?

17 A. Uh-huh.

18 Q. Before Culpepper allegedly made that
19 statement?

20 A. Correct.

21 Q. Do you use that term personally?

22 A. No, I don't personally use it.

23 Q. Have you ever?

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1 A. Not in the same sentence, no. No.

2 Q. Not in the same what?

3 A. I never told -- no. My answer is no to
4 your question.

5 Q. You don't know what Culpepper meant by
6 that term, do you?

7 A. I don't know, but from like old people
8 used to say and the way I heard the saying
9 from that comment, it's like he's
10 basically just telling you to get to work
11 or, you know, he wanted to see -- I don't
12 know how to explain what the comment --

13 Q. What do you think he -- you don't know
14 what he meant, do you?

15 A. Huh-uh.

16 Q. Is it possible you misheard him?

17 A. No.

18 Q. You don't know why he made that comment,
19 do you?

20 A. Don't know why.

21 Q. Do you know whether Culpepper made the
22 same comment to male employees?

23 A. No.

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1 Q. Do you know whether Culpepper made the
2 same comment to white employees?

3 A. No.

4 Q. Is this the only time you recall Culpepper
5 making this comment?

6 A. That comment, yes.

7 Q. And he did not reference your race or sex,
8 did he?

9 A. Depend on how you look at "ass." I mean,
10 I really don't know what he meant by it.

11 Q. You don't think this comment has anything
12 to do with your race, do you?

13 A. No, not race, but it could have something
14 to do with sexually or something.

15 Q. Do you know?

16 A. Do you know?

17 Q. I'm asking you. I'm asking the questions.

18 A. I don't know.

19 Q. You don't know?

20 A. Huh-uh.

21 Q. You don't know whether that was a sexual
22 statement or --

23 A. Gesture or -- yeah, I don't know. I don't

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1 know what he meant at that time. I just
2 know he said it.

3 Q. Were you offended by that comment?

4 A. Yeah.

5 Q. But you don't know what he meant?

6 A. I don't know what he meant, but I still
7 took offense to it for my manager to tell
8 me all he wanted to see was ass and
9 elbows.

10 Q. What did you take offense to, the word
11 "ass"?

12 A. Yeah.

13 Q. Just the fact that it's a curse word?

14 A. Yeah. The fact that it -- yeah, the fact
15 that it's a cuss word and he was a
16 supervisor of higher power talking like
17 that --

18 Q. Using that cuss word?

19 A. Yeah.

20 Q. Is that what you found objectionable?

21 A. That's what I found objectionable.

22 Q. Going back to the comment he allegedly
23 made about customers getting on his,

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1 quote, fucking nerves, end quote, is what
2 you found objectionable about that comment
3 too, just the fact that the F-word is a
4 cuss word?

5 A. And he used it as a manager, explaining
6 that --

7 Q. You don't think it's appropriate for them
8 to use a cuss word in the workplace?

9 A. Exactly. Around nobody.

10 Q. So back to this ass and elbows statement.
11 What you found objectionable about that is
12 the fact that a manager would use the word
13 "ass" in the workplace, because that's a
14 cuss word; is that right?

15 A. And not only because it's a cuss word;
16 he's talking about a specific part of your
17 body as a cuss word.

18 Q. Well, you don't know whether he was
19 talking about your ass, do you?

20 A. I don't know. I don't know.

21 Q. I mean, you just don't have any idea?

22 A. No, I don't have any idea. It's just what
23 I took of it, the offense that I took

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1 against the word.

2 Q. You testified that you've heard that term
3 before. In what context have you heard it
4 used before?

5 A. What?

6 Q. The term "ass and elbows"?

7 A. In a song.

8 Q. What song?

9 A. It was -- I mean, it was -- was it a song?
10 Oh, I'm thinking about something else. I
11 thought I heard that. I've done heard it
12 said before.

13 Q. Do you think he was just being funny?

14 A. I don't know.

15 Q. Is it possible?

16 A. At the time -- I'm trying to put myself
17 back in that environment. At the time --
18 he could have; I don't know. Because he
19 was buying everybody sodas, so maybe he
20 was in a good mood.

21 Q. And maybe he was just kidding around?

22 A. Well, I don't think he --

23 Q. Is that possible?

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1 A. I don't think he used to kid like that,
2 though. I mean, he said little slick
3 comments and stuff, but --

4 Q. Well, but do you know whether he was just
5 kidding around at that point?

6 A. I don't know. I can't recall. I don't
7 know.

8 Q. And back to Billy Pridgen. When he made
9 the alleged comment regarding the coconut
10 bras, do you know whether he was just
11 kidding?

12 A. I don't know.

13 Q. I mean, is it possible he was just trying
14 to be funny?

15 A. I know one thing, I have never made
16 comments towards them in any way to make
17 them think like it's okay to say cuss
18 words or anything around me, because I
19 didn't -- I never cussed at them or used
20 any kind of profanity, so --

21 Q. Okay. Well, we're talking about the
22 coconut bra comment?

23 A. Yeah.

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1 Q. That doesn't have any profanity. Do you
2 know what --

3 A. That still was a sexual gesture, though.

4 Q. Do you know whether he was just teasing?

5 A. I don't know. I have no idea. I don't
6 know what was going through his mind at
7 that time.

8 Q. That was just an isolated incident, wasn't
9 it?

10 A. Yeah.

11 Q. And the ass and elbows comment was just an
12 isolated incident too?

13 A. What do you mean by isolated, just one
14 that happened?

15 Q. Yeah.

16 A. Yeah, it was an incident that happened.

17 Q. I know, but it was just an isolated
18 incident; this is the only time you recall
19 him using that term, correct?

20 A. Ass and elbows? Yeah.

21 Q. You don't believe that Jerry Culpepper was
22 trying to come on to you in a sexual
23 manner, do you -- when he made the ass and

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1 elbows comment, do you?

2 A. No.

3 Q. And did you just walk away after he made
4 that comment?

5 A. Yeah.

6 Q. You didn't tell Culpepper that you were
7 offended by it, did you?

8 A. I just didn't say nothing else to him.

9 Q. And you didn't complain to anyone else
10 about this comment, did you?

11 A. Couldn't go back to him about it.

12 Q. You didn't?

13 A. No.

14 Q. And you didn't complain to anyone else?

15 A. No.

16 Q. Culpepper's employment with Big Lots ended
17 before your termination, didn't it? Are
18 you aware of that?

19 A. I think so. I think he did find -- I
20 think I do recall that, him finding a job
21 before the store actually closed.

22 Q. Do you know the date his employment ended?

23 A. Huh-uh. I think I do remember that

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1 information you gave to the EEOC regarding
2 your second charge are the charge itself
3 and then whatever pages are attached as an
4 exhibit; is that right?

5 A. Correct.

6 Q. I've just handed you two pages, which are
7 notes that you produced earlier today, and
8 they've been marked as Exhibit 24. You
9 recognize these documents, I assume?

10 (The referred-to document was
11 marked for identification as
12 Defendant's Exhibit No. 24.)

13 A. Yes, I do.

14 Q. Is this the other incident that you were
15 just about to tell me about?

16 A. Yes.

17 Q. All right. And is this an incident that
18 allegedly occurred on August 4, 2003, at
19 12:00 p.m.?

20 A. Yes, it is.

21 Q. And did you make this note at the time?

22 A. Yes, I did.

23 Q. Tell me about this incident.

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1 A. At this time I was working day shift, and
2 I was helping unload a truck. And my hair
3 was real long, so instead of going there
4 unloading the truck, I had a bandanna
5 wrapped around my head so my hair wouldn't
6 sweat out. And after we finished
7 unloading the truck, like we always do, we
8 get sodas and we take a break before we go
9 to the floor. And at this time, since I
10 had a bandanna wrapped around my head, I
11 went to the break room. And Billy came
12 out and looked at me and said, all you
13 need now is a bag of grits.

14 Q. Is that all he said?

15 A. That's what he said. And every -- I mean,
16 the break room was packed, and everybody
17 -- and I looked at him like, bag of grits?
18 But he was just calling me Aunt Jemima.
19 That's exactly what he was calling me.

20 Q. But he didn't say that?

21 A. All you need to know -- I had a head band
22 tied --

23 Q. I'm asking you what he said. You've

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1 already told me that. I'm asking you what
2 he said.

3 A. That's what he said.

4 Q. What did he say?

5 A. All you need now is a bag of grits.

6 Q. And that's all he said?

7 A. That's what he said.

8 Q. Okay. You're adding the Aunt Jemima part;
9 he didn't say that?

10 A. But --

11 Q. That's what you thought he meant?

12 A. That's what I knew he meant.

13 Q. How could you --

14 A. I mean, I didn't hear it out his mouth,
15 but I knew that, as dark as I am, with
16 this thing tied around my head and a bag
17 of grits -- why would he come in the break
18 room saying I need a bag of grits?

19 Q. I'm asking you the questions. I'm asking
20 what he said. Is Aunt Jemima, is that
21 anything -- is she even the symbol for
22 grits?

23 A. Yeah, she's the symbol for something.

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1 was referring to Aunt Jemima or not, do
2 you?

3 A. You don't either.

4 Q. I'm asking you a question. This is your
5 deposition. Do you know? You don't know
6 what he was thinking, do you?

7 A. You don't know what he was thinking
8 either. That was the most humiliating day
9 --

10 Q. Do you know --

11 A. -- of my life right there.

12 Q. -- what he was thinking in his mind?

13 A. I don't know what he was thinking.
14 Evidently, he didn't either.

15 Q. Is this Billy Pridgen you're referring to?

16 A. Uh-huh.

17 Q. And this incident allegedly occurred in
18 August of 2003?

19 A. Yes.

20 Q. And so that was nearly two years before
21 you filed your first EEOC charge, correct?

22 A. Correct.

23 Q. And almost two years prior to the Mike

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1 Williams pictures about which you
2 complained in your first EEOC charge,
3 correct?

4 A. Nearly.

5 Q. And was this incident included in your
6 first EEOC charge?

7 A. No, it wasn't.

8 Q. And did you not include it in your first
9 EEOC charge because it had occurred so far
10 before --

11 A. Correct.

12 Q. -- before you filed the EEOC charge, is
13 that correct?

14 A. Correct.

15 Q. And this is another isolated incident?

16 A. That happened to -- but the next day
17 Billy, he didn't do --

18 Q. Hold on. Answer my question, then we can
19 move to something else. But this was
20 another isolated incident; is that
21 correct?

22 A. Incident that happened with -- yeah, by
23 itself, yes.

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1 Q. Unrelated to any other incident?

2 A. Correct.

3 Q. Just a one-time comment made by Billy
4 Pridgen in 2003, correct?

5 A. Correct.

6 Q. And you testified that you don't know why
7 Billy Pridgen made that comment, correct?

8 A. He acted on what he seen.

9 Q. You don't know why he made that comment,
10 do you --

11 A. No.

12 Q. -- what he was thinking; is that correct?

13 A. Yeah.

14 Q. Do you know whether Billy Pridgen would
15 have made the same comment to a white
16 employee who was wearing a bandanna on his
17 or her head?

18 A. No, he would have not made that same
19 comment.

20 Q. You don't know, do you?

21 A. He wouldn't have made that same comment --

22 Q. How do you know?

23 A. -- to no white employee with no bandanna

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1 on their head.

2 Q. How do you know? Do you know whether he
3 ever did?

4 A. No, I don't.

5 Q. Do you recall any other employee wearing a
6 bandanna on his or her head?

7 A. Yeah. A guy named John, one of our
8 loaders, he used to always wear it because
9 he would have braids. He's a black guy.

10 Q. Do you know whether Billy Pridgen ever
11 made that comment to him?

12 A. No. Why would he tell him all he need was
13 a bag of grits?

14 Q. Do you know whether he did, is my question
15 to you.

16 A. No.

17 Q. You don't know; is that correct?

18 A. No, I don't know.

19 Q. Do you know whether Billy was just joking?

20 A. No. I don't think he was joking.

21 Q. Do you know?

22 A. I know he wasn't joking, because the break
23 room got quiet. When he came in there

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1 Q. That's not my question. Did he ever make
2 a similar comment to you?

3 A. Other employees, yes, not to me.

4 Q. Answer my question, or we're going to be
5 here all night.

6 A. I told you, not to me. I'm not going to
7 be here all night. I've got to go to
8 school tonight.

9 Q. So the answer is no, he did not make any
10 other similar comment to you?

11 A. No, he did not.

12 Q. Your EEOC charges or the claims you're
13 making in this lawsuit don't have anything
14 to do with any comments Billy Pridgen
15 allegedly made to other individuals, do
16 they?

17 A. No.

18 Q. You don't know whether Billy Pridgen made
19 this comment in any way because of your
20 sex, do you?

21 A. No.

22 Q. And is it just your speculation or just
23 your personal belief that it had something

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1 to do with your race?

2 A. I'm almost sure of it, yes.

3 Q. And the next page says, 10:30 a.m.,
4 8/5/03, he did apologize to me. He said,
5 I was told that yesterday I said something
6 to you that offended to you, but I
7 apologize to you because I like working
8 with y'all. Is that accurate?

9 A. Y'all as in black people. That's accurate
10 because I reported it to Larry Byrne.

11 Q. Who is that?

12 A. At that time he was the district manager
13 or something.

14 Q. So for this incident you called the
15 district manager?

16 A. I called whoever's name -- they had some
17 name up. And then after he left, when all
18 the management stuff started changed --

19 Q. What I'm asking you is, this incident back
20 in 2003 --

21 A. I did report it.

22 Q. You reported it?

23 A. Yes, I did.

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1 Q. And you reported it to the district
2 manager? Is that your testimony?

3 A. Larry -- I think his name was Larry Byrne.
4 I don't know what position he held, but I
5 know he was over Billy, but he wasn't in
6 the store.

7 Q. So then the next day Billy apologized to
8 you?

9 A. After I talked to the man.

10 Q. Okay. But Billy apologized?

11 A. Yeah, he apologized.

12 Q. And he didn't make any other comment to
13 you like this after that, did he?

14 A. No.

15 Q. Okay. And you don't know what he meant
16 when he said, I like working with y'all,
17 do you?

18 A. Y'all as in black people.

19 Q. But --

20 A. I don't know what he meant.

21 Q. All right. But he apologized and it
22 didn't happen again; is that correct?

23 A. Not to me, it didn't. Other employees,

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1 yes, but not to me.

2 Q. Your claims in this lawsuit are based on
3 what happened to you; is that correct?

4 A. It is now.

5 Q. So the one time that he made this comment
6 to you, you reported it; he apologized;
7 and there wasn't another comment like this
8 made by Billy Pridgen, correct -- to you?

9 A. Oh, no, not to me.

10 Q. Ms. Reed, I've just handed you a document
11 that's been marked as Exhibit 25. Is this
12 a copy of the dismissal notice of rights
13 you received from the EEOC with respect to
14 your second charge?

15 (The referred-to document was
16 marked for identification as
17 Defendant's Exhibit No. 25.)

18 A. Correct.

19 Q. And that was charge number 130-2005-06904;
20 is that right?

21 A. Correct.

22 Q. And you attached this document to your
23 complaint as an exhibit, didn't you?

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1 A. Yes.

2 Q. And the document indicates it was mailed
3 on February 6, 2006; is that right?

4 A. Yes.

5 Q. And according to your complaint, you
6 received the document on February 6, 2006;
7 is that right?

8 A. Or something close around that.

9 Q. I'm sorry?

10 A. Or a date close to it. Mail travels.

11 Q. All right. But you've alleged in your
12 complaint that you received it on February
13 6, 2006, so that must be correct; is that
14 right?

15 A. Yeah.

16 Q. And it states the EEOC is closing its file
17 on this charge for the following reason,
18 and the box is checked that states that,
19 based on the EEOC's investigation, it is
20 unable to conclude that the information
21 obtained establishes a violation of the
22 statute; is that correct?

23 A. Correct.

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1 Q. And you only have filed two EEOC charges,
2 the two we've discussed today; is that
3 right?

4 A. Correct.

5 Q. And the two EEOC charges and the attached
6 exhibits are the documents and information
7 you recall giving to the EEOC regarding
8 these charges, correct?

9 A. Repeat that.

10 Q. The two charges that we've discussed and
11 the attached exhibits are the documents
12 and information you recall giving to the
13 EEOC with respect to these two charges; is
14 that right?

15 A. Yes.

16 Q. And you don't recall ever amending these
17 two charges, do you?

18 A. What do you mean, amending?

19 Q. Changing them.

20 A. No.

21 Q. And so the alleged conduct on which you
22 based your two EEOC charges was alleged
23 race and sex harassment, correct?

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1 A. Correct.

2 Q. And have we now discussed all the
3 incidents on which you based your EEOC
4 charges?

5 A. To my knowledge, yes.

6 Q. And you've told me about any complaints
7 you made regarding any of the harassment
8 or discrimination you are alleging,
9 correct?

10 A. Correct.

11 MR. SMITH: If you want to take
12 maybe a short five-minute
13 break.

14 (Brief recess.)

15 Q. We're back on the record after a short
16 break. You understand you're still under
17 oath, Ms. Reed?

18 A. Yes.

19 Q. Your employment with Big Lots ended
20 effective January 11, 2006; is that
21 correct?

22 A. Correct.

23 Q. And you testified earlier that you were

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1 terminated because Store Number 818 where
2 you worked was closed permanently; is that
3 right?

4 A. Correct.

5 Q. And your termination, which resulted from
6 the store closing, is not part of your
7 claims in this lawsuit; is that correct?

8 A. Correct.

9 Q. According to Paragraph 4 of your
10 complaint, which we've already admitted as
11 an exhibit, the acts you're complaining of
12 in this lawsuit are of hostile environment
13 based on your race or sex; is that
14 correct?

15 A. Correct.

16 Q. And as you testified earlier, these are
17 the only claims you're alleging in this
18 lawsuit; is that correct?

19 A. Correct.

20 Q. You are aware that all hourly employees at
21 Store Number 818 were terminated when the
22 store closed, aren't you?

23 A. No, because I was told that some of them

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1 got transferred to 816, the other store.

2 Q. But that's not the case. Do you know
3 that?

4 A. No.

5 Q. Do you have any reason to disagree with
6 that?

7 A. What, that --

8 Q. The fact that no hourly employees were
9 transferred?

10 A. No.

11 Q. According to Paragraph 8 of your
12 complaint, the alleged discrimination
13 occurred on or about March 18th through
14 30th, 2005; is that correct?

15 A. Correct.

16 Q. Your claims in this lawsuit are based on
17 the pictures of employees made by Mike
18 Williams that we've already discussed; is
19 that correct?

20 A. Correct.

21 Q. And for clarification, you're not alleging
22 retaliation in this lawsuit, are you?

23 A. No.

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1 A. No, just about a deposition, asked her has
2 she -- asked her the last time she heard
3 from the lawyer -- heard from you all and
4 then asked her, hey, you got anything on a
5 deposition; you going to do it? And that
6 was the last thing I talked to her about,
7 as far as the case. Autherine Crosky --
8 oh, you didn't ask about her.

9 Q. When was the last time you talked to Ms.
10 Crosky?

11 A. Her personally, I didn't talk to. I
12 talked to her husband on yesterday --
13 yesterday or Monday asking when her
14 deposition was.

15 Q. You called them?

16 A. Uh-huh.

17 Q. Why did you care about when her deposition
18 was?

19 A. Because I thought we was together. I
20 thought she -- because just like last time
21 we appeared in court, me and her didn't
22 talk. We hadn't even talked, and then it
23 was like, bam, both of us here together.

Equal Employment Opportunity

Last update: August 2005

No person shall be discriminated against in employment because of race, color, religion, sex, sexual orientation, age, national origin, mental or physical disability or marital status.

This policy applies to all terms and conditions of employment including, but not limited to hiring, training, promotion, transfer, demotion, compensation, benefits, and termination.

The Executive Vice President is responsible for formulating, implementing, coordinating, and monitoring all efforts in the area of equal employment opportunity.

Each manager is responsible for initiating and administering this policy within his/her store/department.

Every associate is expected to adhere to the guidelines set forth in this policy in both practice and spirit.

Any formal or informal allegation that this policy has been violated should be referred immediately to Human Resources.

Employing Persons with Disabilities

Qualified individuals with disabilities are to be treated in a nondiscriminatory manner in the pre-employment process and in all terms, conditions, and privileges of employment.

All medical-related information is to be maintained in a confidential manner in separate, confidential files.

Applicants and associates with disabilities are to be provided reasonable accommodation, except where making an accommodation would create an undue hardship on the Company.

All requests for reasonable accommodation from qualified applicants and associates with disabilities are to be referred to the appropriate Human Resources manager. The Company will make a good faith effort to assist individuals seeking accommodations.

In determining the feasibility of the requested accommodation, the Company will consider the preference of the individual to be accommodated and, if there are two or more effective accommodations, will choose the least expensive or most practical accommodation that will provide equal opportunity for the applicant or associate.

Accommodation is generally initiated by a request from an applicant or associate. Situations may arise where an associate, who is known to have a disability, may be having difficulty performing the essential functions of his/her job and therefore, may need accommodation. The associate's supervisor should discuss the matter with the appropriate Human Resources manager. The Human Resources manager will advise the associate's supervisor on how to initiate a discussion with the associate.

Violations of this policy may result in disciplinary action, up to and including termination of employment. (See Confidential Information, Harrassment-Free Environment, Open Door)

**DEFENDANT'S
EXHIBIT**

6

Harassment-Free Environment

Last update: August 2005

Big Lots strictly prohibits harassment and/or discrimination based on race, color, religion, sex, sexual preference, age, national origin, mental or physical disability or marital status.

Each supervisor or manager is responsible for maintaining a work environment that is free of harassment both sexual and otherwise. This includes communication of this policy to all associates and assuring that they are not subjected to insulting, degrading or exploitative behavior as defined above.

Big Lots also strictly prohibits sexual harassment. Sexual harassment includes any unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term or a condition of an individual's employment.
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.
- Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Likewise, all associates are responsible for adhering to these guidelines and are prohibited from engaging in discriminatory or harassing behavior. Any associate who believes he/she has been the subject of harassment is responsible for promptly reporting the alleged act to Human Resources or his/her immediate supervisor.

All reports of harassment will be promptly investigated under the direction of Human Resources. All investigations of alleged harassment will be conducted with the utmost concern for the confidential and personal nature of the allegation and with a high degree of sensitivity to the individuals involved. Any associate who is found to have engaged in discriminatory or harassing conduct will be subject to appropriate disciplinary action, up to and including termination. Likewise retaliation against anyone reporting acts of harassment will not be tolerated.

This policy is intended to be in compliance with all Federal laws, specifically Title VII of the Civil Rights Act of 1964, and all State and Local laws dealing with unlawful discrimination and/or harassment. (See Equal Employment Opportunity, Open Door, Standards of Conduct)

**DEFENDANT'S
EXHIBIT**

Open Door

Last update: August 2005

Big Lots believes in dealing directly with all associates and further believes that all associates have a right to express their opinions, concerns, and to ask any questions they may have relating to their job or the Company. Any associate with a question or problem is entitled to use the Open Door Policy and may contact anyone in the organization.

Take the question or concern to your immediate supervisor or manager.

OR

If you have a question and do not wish to discuss the matter with your direct manager or supervisor, go to the next level manager.

OR

If you have a question or you just feel uncomfortable discussing the issue with one of the managers listed above, contact the appropriate member of the Human Resources Department:

- Store Associates: Contact the Regional Human Resources Manager.
- Distribution Associates: Contact the Distribution and Transportation Services Human Resources Manager.
- General Office Associates: Contact the General Office Human Resources Manager.

Associates wishing to make anonymous complaints or ask a question may call the Get Real Hotline at 1-866-834-REAL (1-866-834-7325).

All members of management are expected to maintain the integrity and communicate the spirit of the Open Door Policy.

Any attempt to thwart or retaliate against an associate for exercising his/her Open Door rights will be considered a serious violation of Company policy and may result in disciplinary action, up to and including termination of employment. (See Harrassment-Free Environment, No Solicitation, Standards of Conduct, Union-Free Environment)

**DEFENDANT'S
EXHIBIT**

Print Policy

Standards of Conduct**Last update: August 2005**

Associates are expected to conduct themselves in a way that is conducive to an ethical business environment. Violations of company policy, public policy, or local, state, and federal laws will not be tolerated. Conduct is expected to reflect our Company's values at all times.

The following behaviors are unacceptable deviations from the Company Standards of Conduct:

- Violation of the Harassment-Free Environment Policy.
- Physical assault or attempted assault on another associate or customer.
- Engaging in conversation, gestures or behaviors that are considered lewd, offensive, abusive, and profane or threatening to associates and/or customers.
- Inappropriate fraternization, including having an intimate relationship with another associate whom you supervise, either directly or indirectly, or over whom you exert some influence or control by nature of your responsibility.
- Violation of the Drug-Free Workplace Policy, including but not limited to consuming intoxicating beverages or use of illegal drugs during scheduled work time; or reporting to work under the influence of intoxicating beverages or illegal drugs.
- Smoking in a company facility or company vehicle and/or use of chewing tobacco or similar products (See Smoke Free Policy).
- Conduct which results in a substantial risk of harm to a customer or another associate, or damage to Company property.
- Possession of weapons, including but not limited to, knives, firearms, explosives, or other instruments that may cause harm to others, intoxicating beverages, or illegal drugs on Company property, including parking lots, or while conducting Company business.
- Conviction of a criminal offense for a crime against the Company or related to the type of responsibilities performed for the Company.
- Dishonest activities such as, theft, selling merchandise at a price lower than that which is marked on the goods without authorization, consumption or use of merchandise that has not been previously purchased by the associate or approved by management.
- Violation of minor labor laws for those associates under eighteen (18) years of age. *NOTE: Associates less than eighteen (18) years of age are not permitted to load, unload or otherwise operate the cardboard baler. These associates are also not permitted to operate any type of power equipment. (See Employment of Minors Policy).*
- Violation of the No Solicitation Policy.
- Unauthorized use of Company property, facilities or resources (See Electronic Communications Policy).
- Unauthorized divulgence of personnel records or Company business (See Confidential Information Policy).
- Insubordination by refusing to complete work as assigned by a manager. In the event of conflicting instructions, the associate should follow the directions of the manager-on-duty and later request clarification.
- Unsatisfactory work performance including disregard of established safety practices and rules.
- Failure to cooperate with Company investigations or inspections.
- Excessive absenteeism or tardiness (See Attendance Policy).
- Working before or after scheduled time without specific authorization from management.
- Job abandonment, which includes two (2) consecutive days absence from scheduled work without calling into management (See Call-in Procedure Policy) or walking off the job without notifying management. These occurrences are considered voluntary terminations (See Termination of Employment Policy).
- Falsification of documents or records including but not limited to, employment application, expense reports, price change documents, timecards, permitting another associate to clock in or out for you, production reports, payroll management documents, etc.
- Misuse of the associate discount privilege by permitting someone not eligible to purchase items with the associate discount or by returning merchandise for a full refund when purchased with the associate discount (See Associate Discount

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Policy).

- Associates are not permitted to hold or hide merchandise for purchase at a later time. Associates may not purchase merchandise unless it is available for sale to the general public.
- The writing of bad checks to the Company.
- The following violations are store specific:
 - Any violation of established shopping regulations including processing unauthorized markdowns and/or ringing sales or handling any other transaction (i.e., returns, cashing checks, etc.) of your own or any immediate relative.
 - Improper use of "paid outs".
 - Cashing checks.
 - Use or unauthorized removal of store funds, or other Company resources, for personal use.
 - Unexplained single incident variance of \$50 or greater where till integrity has been maintained.
 - Single till variance of \$5 or more, and/or variances of \$15 or more in a 30-day period.
 - Failure of store associates to perform established procedures, including but not limited to, the following:
 - Completing daily bank deposits.
 - Securing funds properly.
 - Maintaining accountability for all funds transactions.
 - Conducting "cash pickups" when cash totals in excess of \$1500 in drop box and till.
 - Ensuring that Register operator "till drops" are made when cash exceeds \$100 of paper currency in till.
 - Ensuring all doors are locked and alarms set as required.
 - Ensuring all safety exits are accessible.
 - Securing safe, as required including maintaining confidential safe combination.
 - Maintaining key control.
 - Ensuring that store security cameras are operating daily and tapes maintained as required.
 - Allowing only authorized associates in controlled areas (i.e., stock room, cash office, etc.).
 - Violation of any other Company rules/regulations or any other action/activity that is deemed to be detrimental to the orderly operation of our Company.

Associates are expected to comply with this Policy and report violations immediately. In all of the above instances, the severity of an individual violation may warrant immediate termination. However, only those persons with the approval to terminate can make this determination (See Termination of Employment Policy).